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May 5, 2023

## VIA ECF

The Honorable Lorna G. Schofield  
United States District Court for the Southern District of New York  
500 Pearl Street  
New York, New York 10007

*Re: McKoy, et al. v. The Trump Corp., et al.*, No. 18 Civ. 9936 – Letter Motion to Seal

Dear Judge Schofield:

We write on behalf of Plaintiffs and the putative classes in the above-referenced action, pursuant to Rule I.D.3 of Your Honor’s Individual Rules, to respectfully request provisional approval to file under seal: (1) an unredacted version of Plaintiffs’ Memorandum of Law in Support of Plaintiffs’ Motion to Exclude Dr. Peterson’s Expert Opinions and to Preclude Dr. Hair’s Supplemental Declaration, and (2) certain exhibits supporting Plaintiffs’ motion.<sup>1</sup>

In our moving papers, Plaintiffs refer to, quote from, and attach exhibits, including documents and transcripts, that have been designated as “Confidential” by Defendants or by non-party ACN under Paragraph 3 of the operative Protective Order entered by the Court on September 10, 2019. *See* ECF 112.

In accordance with Paragraph 16 of the Protective Order, which incorporates by reference section I.D.3 of Your Honor’s Individual Rules, Plaintiffs have provisionally filed the unredacted memorandum under seal and have provisionally redacted references to the information designated as “Confidential” in the memorandum filed on the public docket.<sup>2</sup> Plaintiffs have also provisionally filed the above referenced exhibits under seal. Pursuant to the Protective Order, however, the entity or entities “with an interest in confidential treatment bears the burden of

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<sup>1</sup> In accordance with Rule I.D.3 of the Court’s Individual Rules, an unredacted copy of the Memorandum, with redactions highlighted, will be filed under seal contemporaneously with this letter motion. *See* Standing Order, 19-mc-00583 (Dec. 19, 2019); Electronic Case Filing Rules & Instructions, Rule 6.8.

<sup>2</sup> In connection with today’s motion, Plaintiffs filed a pre-motion letter on April 21, 2023, ECF 566, in which quotations from, and references to, certain materials were provisionally filed under seal, *see* ECF 565. Defendants filed a response on April 27 submitting “that nothing in the April 21 letter is confidential and requires sealing.” ECF 571. Accordingly, anything in Plaintiffs’ April 21 letter that is reproduced in Plaintiffs’ papers today has not been filed under seal, but in accordance with the Protective Order, we have provisionally filed under seal all references to materials designated “Confidential” that were not previously referenced in our April 21 letter, even though Defendants may ultimately take the same position here.

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2

persuasion.” ECF 112 at 5. Defendants and ACN, as the parties that made the relevant confidentiality designations, have the “interest in confidential treatment.” *Id.*

Finally, for the avoidance of doubt, Plaintiffs take no position at this time on whether the redacted information was properly designated as Confidential or whether it ought to remain sealed from the public. Plaintiffs further respectfully reserve the right to challenge the relevant confidentiality designations in the future pursuant to Paragraph 15 of the Protective Order.

Respectfully submitted,



John C. Quinn

cc: *All Counsel of Record (via ECF)*